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ATTORNEYS FOR THE DEBTORS AND DEBTORS-IN-POSSESSION

**THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

_____)	
In re)	Chapter 11 Case
)	
MIRANT CORPORATION, <u>et al.</u> ,)	Case No. 03-46590-DML
)	Jointly Administered
Debtors.)	
)	Hearing Date and Time: To Be Set, if Necessary
_____)	

**APPLICATION FOR ENTRY OF AN ORDER PURSUANT TO 11 U.S.C. §§ 327(a)
AND 328 AUTHORIZING THE EMPLOYMENT AND RETENTION OF BRONIEC
ASSOCIATES, INC. AS ACCOUNTS PAYABLE AUDITORS OF THE DEBTORS**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Mirant Corporation (“Mirant”) and its affiliated debtors (collectively, the “Debtors”), as debtors-in-possession, file this Application for Entry of an Order Pursuant to 11 U.S.C. §§ 327(a) and 328 Authorizing the Employment of Broniec Associates, Inc. (“Broniec”) as Accounts Payable Auditors of the Debtors (the “Application”), and in support of this Application, respectfully represent as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Application pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

PROCEDURAL BACKGROUND

2. The Cases. On July 14, 2003 and various dates thereafter (collectively, the “Petition Date”), Mirant Corporation and 82 of its direct and indirect subsidiaries (collectively, the “Debtors”) filed voluntary chapter 11 petitions. The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of title 11 of the United States Code (the “Bankruptcy Code”).

3. The Cases are Jointly Administered. This Court has entered orders approving the joint administration of the Debtors’ chapter 11 cases.

4. The Committees. Three official committees (collectively, the “Committees”) have been appointed by the Office of the United States Trustee for the Northern District of Texas in these administratively consolidated cases.

Retention of Broniec

5. The Debtors request authorization to retain Broniec as accounts payable auditors, pursuant to sections 327(a) and 328(a) of the Bankruptcy Code, effective as of March 11, 2004.¹ The terms of Broniec’s employment are set forth in the Engagement Letter, a true and correct copy of which is appended hereto as Exhibit 1.

¹ The Debtors notified the Court on March 11, 2004 that they would be retaining Broniec to render services to the estates.

6. The Debtors desire to retain Broniec to assist the Debtors with a review of the Debtors' accounts payable system to objectively assess the Debtors' disbursement process. As accounts payable auditor, Broniec will perform a comprehensive post-payment audit of accounts payable covering Fiscal Years 2001 – 2003. Broniec will conduct a thorough analysis of each vendor's account to identify overpayments in the following categories:

- Compliance with purchase order/contract terms
- Negotiated cash discounts taken upon timely payment
- Trade discounts applied properly to purchases
- Advertising allowances properly applied
- Duplicate payments and erroneous payments made to vendors
- Freight charges paid correctly
- Freight charges confirmed to purchase order terms
- Compliance with established routing procedures
- Vendor returns calculated and applied properly
- Freight charges calculated and applied properly on returns
- Compliance with proper sale and use tax rates and exemptions
- Vendor statement review
- Unclaimed property analysis

7. Broniec Associates will provide a quantitative analysis report of the results of its audit upon completion of the engagement. That report will analyze Broniec's findings by the type of error identified.

8. The Debtors believe that these services are necessary to recover certain overpayments that may have been made as a result of the Debtors' upgrade of software that did not include a conversion of some historical payment data. Although it is quite frequent in an organization of the Debtors' size that certain invoices may be duplicated within the accounts payable system and therefore paid twice, it is more frequent when historical data is not available because recent historical data within the current system is required to run system checks and controls for duplications. The Debtors' vendor master-file also contains very high counts of "same but different vendor entries" which may have led to duplicate payments. Additionally, it is necessary for the Debtors to utilize Broniec to develop company wide uniform accounts payable policies and procedures to help avoid overpayments on a go forward basis.

9. Broniec's comprehensive accounts payable audit will expose and recover the maximum of hidden overpayment balances increasing the greatest available cost savings. Broniec will also provide the Debtors with statistical detail and analysis of its audit findings to assist in making the disbursement process more accurate and efficient in the future. In short, as accounts payable auditor, Broniec will objectively determine the accuracy of the Debtors' accounts payable transactions and assist in the recovery of overpayments.

10. Prior to reaching a decision to employ Broniec, the Debtors approached several firms that the Debtors believe are competent to assist the Debtors in the collection of overpayments within the Debtors' accounts payable system. The Debtors have determined that the terms and services offered by Broniec best meet the needs of the Debtors.

11. The accounts payable auditing services to be rendered by Broniec will not be duplicative of the services rendered by any other of the Debtors' professionals retained in

these chapter 11 cases. The Debtors previously obtained Court approval to retain Ryan & Company, Inc. to assist the Debtors in sale and use tax overpayment collection, but Ryan & Company's services will not relate to the collection of any other overpayments within the Debtors' accounts payable system. Nevertheless, the Debtors will carefully coordinate Broniec's efforts with other professionals retained in these cases and ensure that there is no duplication of effort.

Compensation

12. Pursuant to section 328(a) of the Bankruptcy Code, the Debtors may retain Broniec on any reasonable terms and conditions. Consistent with industry standards for this kind of service, the Debtors have agreed to compensate Broniec pursuant to the following contingency fee arrangement:

Prepetition Period (Periods prior to July 14, 2003)

Recoveries up to \$500,000	27%
Recoveries of \$500,001 to \$3,000,000	20%
Recoveries of \$3,000,001 to \$5,000,000	15%
Recoveries over \$5,000,000	10%
 Single Cap - \$1,000,000 or more ²	 10%

Post-Petition Period (Periods after July 14, 2003)

Recoveries up to \$500,000	23%
Recoveries of \$500,001 to \$3,000,000	15%
Recoveries over \$3,000,000	10%
 Single Cap - \$1,000,000 or more	 10%

² To prevent a windfall to Broniec, the Debtors negotiated a 10% fee with respect to any single recovery that exceeds \$1 million.

13. Regardless of any recovery, Broniec will be entitled to reimbursement of its reasonable expenses in connection with the engagement.

14. The Debtors believe that proposed terms and conditions of this engagement represent the most reasonable terms and conditions for the services contemplated to be rendered by Broniec in a competitive market for these services. The Debtors further understand that the proposed terms and conditions of the engagement are reasonable and based upon industry standards. In sum, the Debtors believe that the fees charged by Broniec are reasonable in light of (a) industry practice; and (b) market rates charged for comparable services both in and out of the chapter 11 context.

Broniec Is A Disinterested Person

15. To the best of the Debtors' knowledge, information and belief, Broniec represents no interest adverse to the Debtors or to their estates in the matters for which Broniec is proposed to be retained, except as set forth herein and the affidavit of Gerry A. Conheady, President of Broniec (the "Conheady Affidavit"). The Conheady Affidavit, executed on behalf of Broniec in accordance with the provisions of section 327 of the Bankruptcy Code, Federal Rule of Bankruptcy Procedure 2014, Local Bankruptcy Rule 2016(b) and U.S. Trustee Guidelines, is incorporated herein by reference. The Debtors' knowledge, information and belief regarding the matters set forth in this Application are based, and made in reliance, upon the Conheady Affidavit.

16. In addition, as set forth in the Conheady Affidavit, Debtors submit that Broniec (and its employees) is a "disinterested person" as that term is defined in section 101(14)

of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code, in that Broniec, its partners and employees, to the best of their knowledge:

- a. are not creditors, equity security holders or insiders of the Debtors;
- b. are not and were not investment bankers for any outstanding security of the Debtors;
- c. have not been, within 3 years before the date of the filing of the Debtors' chapter 11 petitions, (i) investment bankers for a security of the Debtors, or (ii) an attorney for such an investment banker in connection with the offer, sale, or issuance of a security of the Debtors;
- d. are not and were not, within 2 years before the date of the filing of the Debtors' chapter 11 petitions, a director, officer, or employee of the Debtors or of an investment banker specified in subparagraph (b) or (c) of this paragraph, and
- e. do not have an interest materially adverse to the interest of the Debtors' estates, or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in the Debtors or an investment banker, specified in subparagraphs (b) or (c) of this paragraph, or for any other reason.

WHEREFORE, the Debtors respectfully request that the entry of an order (i) approving the retention of Broniec, Inc. as accounts payable auditors for the Debtors pursuant to sections 327(a) and 328 of the Bankruptcy Code, and (ii) granting the Debtors such other and further relief as is just and proper.

RESPECTFULLY SUBMITTED this 21st day of April, 2004.

HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas, TX 75202
(214) 651-5000

Robin Phelan
State Bar No. 15903000

-and-

By: /s/ Michelle C. Campbell

Thomas E Lauria
State Bar No. 11998025
Michelle C. Campbell
WHITE & CASE LLP
Wachovia Financial Center
200 South Biscayne Blvd.
Miami, FL 33131
(305) 371-2700

ATTORNEYS FOR THE DEBTORS
AND DEBTORS-IN-POSSESSION

CERTIFICATE OF SERVICE

The undersigned hereby certifies she has authorized BSI as service agent to cause to serve a true and correct copy of the foregoing document upon all parties on the Limited Service List via first class mail, postage prepaid, the 22nd day of April 2004 in accordance with the Federal Rules of Bankruptcy Procedure.

/s/ Michelle C. Campbell _____



CONTRACT FOR AUDIT SERVICES

This agreement ("the Agreement") is made and entered into as of the 17th day of March, 2004 by and between Broniec Associates, Inc., a Georgia Corporation (hereinafter referred to as "AUDITOR"), and Mirant Corporation and Mirant Services (hereinafter referred to as "CLIENT"). For and in consideration of the mutual rights and obligations created herein, the parties agree as follows:

Relationship Between the Parties: The parties hereto intend that an independent contractor-employer relationship be created by this Agreement. AUDITOR is not to be considered an agent or employee of the CLIENT for any purpose. It is understood between the parties hereto that AUDITOR is an independent contractor in the performance of each and every part of this Agreement and is solely liable for its acts in the performance of the work contemplated herein and for any and all damages which may be occasioned on account of the performance of auditing services under this Agreement. AUDITOR understands that CLIENT is a chapter 11 debtors in cases pending in the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division, and that this Agreement is subject to Bankruptcy Court approval.

Scope of Audit: AUDITOR shall examine the CLIENT's paid invoices, excluding invoices with respect to CLIENT'S payment of state sales and use taxes, and related documentation for the period covering 2001 through 2003. AUDITOR will have access to all information needed to perform a comprehensive audit, either as paper documents or other media (microfiche, microfilm, magnetic tape, etc.). Documentation shall include, but not be limited to, Paid Invoices, Contracts/Purchase Orders, Payment History, Vendor Master File, Routing Instructions, Special Terms (discount, freight allowances, deals, etc.), vendor refunds to Client (to verify refund of overpayments), Canceled Checks (to verify overpayments), outstanding check list (unclaimed property review). AUDITOR will review such documentation in order to identify overpayments made to CLIENT's vendors.

Duties of the Auditor: AUDITOR shall perform the services with care, skill and diligence, in accordance with applicable professional standards and shall be responsible for the professional quality, technical accuracy, completeness and coordination of services furnished under this Agreement. In the event overpayments or unjustified payments by CLIENT are discovered, AUDITOR will prepare chargebacks in the form and manner approved by CLIENT. AUDITOR must obtain CLIENT'S approval before contacting any vendors to negotiate appropriate adjustments. AUDITOR shall perform due diligence research of outstanding checks or amounts previously escheated to a state in order to reduce amounts pending escheatment to the state or recover amounts escheated improperly to a state(s). AUDITOR shall maintain copies of the chargeback and necessary support and provide CLIENT documentation as needed or requested. AUDITOR shall perform all follow-up work required to ensure proper credit or refund. All chargebacks are subject to timely review by the CLIENT. All overpayments for the period defined in the Scope of Audit are permissible unless CLIENT presents documentation to AUDITOR regarding proof of repayment from the vendor which occurred prior to the start date of the audit. AUDITOR shall submit chargebacks that remain undisputed or unpaid no later than twenty (20) days from the date of mailing, to CLIENT's Accounts Payable Department to be applied against the vendors open invoices.

Audit Timing: AUDITOR shall begin the audit of the designated audit periods on a date, to be mutually agreed upon, based upon receipt of a computer tape of transactions from the CLIENT. The work will be completed in an expeditious manner.

Audit Site: AUDITOR will perform data processing, data analysis and administrative support functions at AUDITOR's locations and the audit at CLIENT's facility, however, AUDITOR, at the request of the CLIENT, may perform services at such other locations as designated by the CLIENT.

Term: The term of this Agreement shall commence on the date hereof and shall terminate on the date which is one year after the date hereof. AUDITOR may request to extend the term for successive periods thereafter by providing written notice thereof to CLIENT upon the effective termination date.

Duty to Report: AUDITOR will assign an audit manager who shall be authorized to act on behalf of AUDITOR and shall report on the status of work in progress to the designated CLIENT representative on at least a weekly basis. AUDITOR will provide final report upon completion of the audit. The final report will include the following AUDITOR deliverables:

Management Letter: summary assessment of audit results; discussion of errors identified, recommendations on steps to implement to avoid future overpayments and other observations focused on accounts payable efficiencies.

Quantitative Analysis Report: these reports can be customized; the base set of quantitative analysis reports consist of the following;

- Recovery Analysis
- Analysis by Error Type
- Analysis by Department
- Analysis by Vendor
- Chargeback Listing
- Descending Dollar Amount

Value Added Reports

- Transaction Count Sort (Descending)
- Vendor Total Dollar Value of Transactions (Descending)
- Vendor Masterfile -- Different Vendor Numbers & Same Street Address

Vendor Masterfile -- Duplicate Vendor Names & Different Vendor Numbers

Fees and Payment: AUDITOR shall be paid on a contingency basis and shall be entitled to receive fees, calculated according to the following schedule, for all sums recovered as a result of its efforts whether paid by check, credit memo, deduction or setoff, future discounts or other form of remuneration by vendors. AUDITOR shall also be entitled to receive fees, calculated according to the following schedule, for all sums that, as a result of AUDITOR'S efforts have been determined not eligible to be escheated to state(s). Invoices will be issued upon recovery of chargebacks. If for any reason a recovery is disallowed or refunded to the vendor after an AUDITOR billing, the CLIENT will be given a credit against future billing, if pending, or a refund.

Pre-Petition Period (Periods prior to July 14, 2003)

Recoveries up to \$500,000	27%
Recoveries of \$500,001 to \$3,000,000	20%
Recoveries of \$3,000,001 to \$5,000,000	15%
Recoveries over \$5,000,000	10%
Single Cap - \$1,000,000 or more	10%

Post-Petition Period (Periods after July 14, 2003)

Recoveries up to \$500,000	23%
Recoveries of \$500,001 to \$3,000,000	15%
Recoveries over \$3,000,000	10%
Single Cap - \$1,000,000 or more	10%

AUDITOR understands that CLIENT will seek Bankruptcy Court approval of the compensation terms of this engagement pursuant to section 328(a) of the Bankruptcy Code, and that the Bankruptcy Court may allow compensation different from the compensation provided under the terms and conditions of this agreement after the conclusion of this engagement, if such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the commencement of this engagement.

Fraud: Payment may be due to AUDITOR, upon receipt of invoice, following recovery of overpayments from vendors as described in the Fees and Payments paragraph. If evidence of fraud is uncovered during the process of the audit, AUDITOR may be entitled to a portion of or the recoveries from the perpetrator, the vendor, the bonding company or the insurance company, subject to negotiation with the CLIENT, not to exceed twenty-seven percent (27%) of the recovered amount. The CLIENT, in its sole discretion, shall determine whether or not it wishes to pursue recovery of amounts attributable to fraudulent conduct.

Confidentiality: AUDITOR agrees that it will not at any time, either directly or indirectly, disclose or communicate in any manner whatsoever to any person, firm, corporation, or voluntarily to any government agency, any information of any kind or description concerning matters affecting or relating to the business of the CLIENT, whether or not any or all of such matters are considered to be confidential or material. Any electronic files will be maintained in full confidentiality and will be used for the purposes relating to CLIENT and the identification of vendor overpayments. AUDITOR acknowledges that the data, trade secrets, business information and all information relating thereto are confidential and proprietary to CLIENT. CLIENT acknowledges that in the course of performance of its obligations hereunder, it may have access to or obtain certain information which is confidential and proprietary to AUDITOR. Except as required by law, neither CLIENT nor the AUDITOR shall disclose any confidential or proprietary information it learns about the other's business in the course of performing under this Agreement. If CLIENT or AUDITOR is required by law to disclose such confidential or proprietary information about the other Party, the disclosing Party shall give reasonable notice to the other Party before such disclosure is made. Neither CLIENT nor the AUDITOR shall make any use of the other's confidential or proprietary information which use is not specifically related to the obligations to be performed under this Agreement and for the benefit of the owner (i.e. CLIENT or the AUDITOR, as applicable) of such information.

Termination: Either party may terminate this Agreement, with or without cause, upon thirty (30) days prior written notice to the other party. Upon any such termination, AUDITOR shall be entitled, following termination and Bankruptcy Court approval, (1) to receive fees set forth in the Agreement for all recoveries by CLIENT from approved chargebacks identified by AUDITOR pursuant to the Agreement prior to termination, and (2) to reasonable access, during normal business hours, to CLIENT records to verify such recoveries.

Waiver: Any waiver by any party to any provision of this Agreement or breach thereof shall not operate or be construed as a waiver of any other provision or subsequent breach thereof.

Entire Understanding: This Agreement contains the entire understanding between the parties hereto and may not be changed without written amendment hereto signed by both parties.

Applicable Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia, without regard to conflicts of laws. AUDITOR understands that the United States Bankruptcy Court for the Northern District of Texas has exclusive jurisdiction over any dispute with respect to this engagement.

Notices: All material notices or other communications or notices required under this Agreement shall be given to the parties in writing as follows: (a) by registered or certified United States mail, return receipt requested and postage prepaid to the applicable addresses below, or to such other addresses as the parties may substitute by written notice given in the manner prescribed in this Section; (b) by hand delivery, including courier service delivery, to such addresses; or (c) by facsimile machine transmission, to the numbers provided below.

If to: AUDITOR

Broniec Associates, Inc.
4855 Peachtree Industrial Blvd. Ste. 215
Norcross, Georgia - 30092-3014
Attn. Gerry Conheady
Telephone: (770) 729-9664
Fax: (770) 729-9764

If to: CLIENT

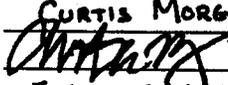
Mirant Corporation
1155 Perimeter Center West, Suite 100
Atlanta, GA 30338
Attn. Leland Shuman
Telephone: (678) 579-5000
Fax: (678) 579-5001

Insurance: Auditor shall secure and maintain, at its own expense, throughout the entire term of this Agreement, the following insurance with the companies satisfactory and acceptable to CLIENT and shall furnish to CLIENT certificates evidencing such insurance, upon request of the CLIENT, prior to commencing work.

Insurance Coverage's:

	Limits:
Commercial General Liability	\$2,000,000
Products/Compliance Operations Aggregate	\$2,000,000
Personal & Advertising Injury	\$1,000,000
Fire Damage Liability	\$1,000,000
Hired Borrowed/Non-Owned Cars	\$1,000,000

Name: Gerry A. Conheady
Signature: 
Title: President
Auditor: Broniec Associates, Inc.
Date: 3/17/04
Federal Tax ID #: 58-1417221

Name: CURTIS MORGAN
Signature: 
Title: EXECUTIVE VICE PRESIDENT
Client: Mirant Corporation
Date: 3/17/04
Federal Tax ID #: 58-2056305

system. I understand that this audit will not include any services related to the Debtors' sales and use taxes, as the Debtors intend to employ another firm to audit the Debtors; payment of sales and use taxes.

4. It is my understanding that the Debtors desire to retain Broniec to assist the Debtors with a review of the Debtors' accounts payable system to objectively assess the Debtors' disbursement process. As accounts payable auditor, Broniec will perform a comprehensive post-payment audit of accounts payable covering Fiscal Years 2001 – 2003. Broniec will conduct a thorough analysis of each vendor's account to identify overpayments in the following categories:

- Compliance with purchase order/contract terms
- Negotiated cash discounts taken upon timely payment
- Trade discounts applied properly to purchases
- Advertising allowances properly applied
- Duplicate payments and erroneous payments made to vendors
- Freight charges paid correctly
- Freight charges confirmed to purchase order terms
- Compliance with established routing procedures
- Vendor returns calculated and applied properly
- Freight charges calculated and applied properly on returns
- Compliance with proper sale and use tax rates and exemptions
- Vendor statement review
- Unclaimed property analysis

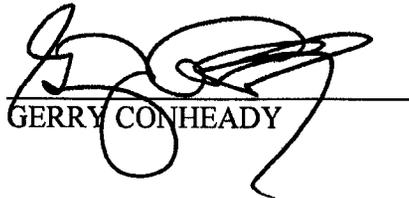
5. Broniec and certain of its shareholders and officers have in the past, currently and may in the future serve as auditors to certain of the companies that currently or in the future may be creditors or claimants of the Debtors. However such services are wholly unrelated to the services that Broniec will render to the Debtors and will not, in the good faith opinion of Broniec, represent an interest materially adverse to the Debtors, their estates, their creditors or any other party in interest herein or their attorneys or accountants in the matters for which Broniec is proposed to be engaged. Appended hereto as Exhibit A is a list of Broniec's clients that have connections with the Debtors.

6. Insofar as I have been able to ascertain, Broniec and its employees:

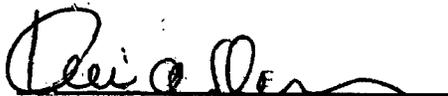
- (a) Are not creditors, equity security holders, or insiders of Debtors;
- (b) Are not and were not an investment banker for any outstanding security of debtors;
- (c) Have not been, within three (3) years before the date of the filing of Debtors' chapter 11 petitions, (i) an investment banker for a security of Debtors, or (ii) an attorney for such investment banker in connection with the offer, sale, or issuance of a security of Debtors;
- (d) Are not and were not, within two (2) years before the date of the filing of Debtors' chapter 11 petitions, a director, officer, or employee of Debtors or of any investment bankers as specified in subparagraph (b) or (c) of this paragraph; and
- (e) Do not have an interest materially adverse to the interest of the estates or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, Debtors or any investment banker as specified in subparagraph (b) or (c) of this paragraph, or for any other reason.

7. To the best of my knowledge, Broniec and its employees do not have any relation to or connection with any judge of this Court or with the United States Trustee for this region or any person employed in the Office of the United State Trustee.

8. The foregoing constitutes the statement of Broniec pursuant to Section 327 of the Bankruptcy Code and Rule 2014(a) of the Federal Rules of Bankruptcy Procedure.


GERRY CONHEADY

Sworn to and Subscribed
before me this 17 day of
March, 2004 .


NOTARY PUBLIC

My Commission Expires: _____

Kevin A. Zelusky
Notary Public, DeKalb County, Georgia
My Commission Expires August 29, 2004

Exhibit A To Affidavit Of Gerry A. Conheady In Support Of Application For Entry Of An Order Pursuant To 11U.S.C. 327(a) And 328 Authorizing The Employment And Retention Of Broniec Associates, Inc. As Accounts Payable Auditors of the Debtors.

The following companies are clients of Broniec Associates and have connections with the Debtors.

BankOne
Fleet
JPMorganChase
Toronto Dominion
Northern Trust Co
AEP Energy Services
American Electric Power Service Co
Liberty Power Corp LLC
General Electric (Consumer Products Div.)
Suncor Energy